

28. (Original) The method of claim 27 further comprising specifying an expiration date after which opening the e-mail does not cause transferring of the monetary value to the user's account.

29-74 (Canceled)

REMARKS / ARGUMENTS

Restriction Requirement

Applicants object to the restriction requirement in the above office action, but continue with the prosecution of claims 27 and 28. Claims newly introduced in the previous amendment (63-74) have been canceled without prejudice.

Rejection under section 112 and objections.

While Applicants disagree with the indefiniteness rejections under section 112, claim 27 has been amended to eliminate the grounds for this rejection.

Obviousness rejection under section 103.

Claims 27 and 28 are rejected under USC 103(a) over Becker in view of Volupage.

Neither reference suggests that the "monetary value" is included as part of the e-mail, as recited in the claims (see claim 27). Becker teaches away from this limitation by describing the prearranged points that may be available to the recipient, but which are not included as part of advertisement messages. Volupage does not address e-mail advertising, and the dollar amount on the Volupage website does not refer to a specific advertisement, but refers to an aggregation of available discounts. Given that the above-mentioned limitation is completely absent from the cited art, it is clear that claim 27 and its dependent claim 28 are patentable. It should also be noted that there is no suggestion in the cited references for their combination.

Official Notice

Previously Applicants objected to official notices because, under MPEP 2144.03, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." Examiner disagreed in the instant office action suggesting that Applicant has a burden to provide arguments disputing an unsubstantiated official notice. The simple fact that the Examiner failed to find appropriate documentary support for the official notice is the best argument supporting that such official notice is improper. It is Examiner's burden to provide appropriate documentary support. Consequently, Applicants renew the objection to any official notice for which Examiner was unable to identify documentary support in the prior art.

Conclusion

In conclusion, since all the claims are patentable, Applicants respectfully request a timely notice of allowance be issued in this case.

Respectfully submitted,

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